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Attorneys for Plaintiff
13 UNITED STATES OF AMERICA

14 UNITED STATES DISTRICT COURT

15 FOR THE CENTRAL DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA,

17 Plaintiff,

18 v.

19 ANDREW LEFT,

20 Defendant.

No. CR 24-456-TJH

GOVERNMENT'S RESPONSE TO
DEFENDANT'S NOTICE OF SUPPLEMENTAL
AUTHORITY IN SUPPORT OF
DEFENDANT'S MOTION TO DISMISS

Hearing Date: May 5, 2025

Hearing Time: 9:00 a.m.

Location: Courtroom of the
Hon. Terry J. Hatter
Jr.

23 Plaintiff United States of America, by and through its counsel
24 of record, the United States Attorney for the Central District of
25 California and Assistant United States Attorneys Brett Sagel and
26 Alexander B. Schwab and the U.S. Department of Justice, Criminal
27 Division Fraud Section and Trial Attorneys Lauren Archer and Matthew
28

1 Reilly, hereby files its response to defendant Andrew Left's notice
2 of supplemental authority in support of his motion to dismiss.

3 The Supreme Court's recent decision in Thompson v. United
4 States, No. 23-1095, 2025 WL 876266 (U.S. Mar. 21, 2025), does not
5 support defendant's motion to dismiss. If anything, it bolsters the
6 government's position.

7 First, Thompson effected no change to the caselaw concerning
8 § 1001 in the Ninth Circuit. Thompson held that 18 U.S.C. § 1014,
9 which prohibits making "false statements," does not separately
10 criminalize misleading statements.¹ Id. at *5. But as the
11 government acknowledged in its opposition to defendant's motion to
12 dismiss, that standard already governed § 1001 charges. As charged
13 in count nineteen of the indictment, defendant's statements were
14 false, not merely misleading.

15 Second, Thompson clarified that "context is relevant to
16 determining whether a statement is false." Id. at *6. Thompson
17 therefore stands against defendant's efforts to inject ambiguity into
18 the investigator's questions and his false answers. See also id. at
19 *6 (Alito, J., concurring) ("[W]e do not regard a statement as true
20 or false based solely on the literal or semantic meaning of its words
21 viewed in isolation.").

22 Finally, defendant's argument for dismissing count nineteen
23 remains factual, not legal, and therefore is not cognizable before
24 trial. See United States v. Shortt Accountancy Corp., 785 F.2d 1448,
25

26 ¹ Defendant's notice states that the Supreme Court "vacated
27 Thompson's convictions and remanded the case." (CR 46, at 1.) That
28 is not correct. The Supreme Court vacated the judgment of the court
of appeals and left for remand whether the convictions should be
upheld because the underlying statements were, in fact, false.
Thompson, No. 23-1095, 2025 WL 876266, at *6.

1 1452 (9th Cir. 1986). Ultimately it is the jury that must decide
2 whether defendant's statements were false in the context in which
3 they were made and not merely misleading.
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5 Dated: April 4, 2025

Respectfully submitted,

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Chief, Criminal Division
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10 /s/
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11 Assistant United States Attorney

12 Attorneys for Plaintiff
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